

Monday, April 28, 2014

## **Caledonia Trip and Fall: Fractured Shoulder and Rotator Cuff Tear > \$107,000**

**The Issue:** What are some of the problems you face when suing a city / municipality for a [slip / trip and fall accident \(i.e. uneven sidewalk\)?](#)

In Ontario, a trip and fall on a city sidewalk can be a difficult liability situation, so that often only quite serious injuries, resulting in significant loss and damage, are brought to Trial. Here, a married mother of two, employed as a hairdresser, suffered a serious shoulder fracture and rotator cuff tear as a result of stubbing / catching her toe on the lip of a concrete sidewalk slab that was sticking up higher than the adjoining slab: ***Grayling v. The Corporation of Haldimand County, 2014 ONSC 198 (CanLII)***.

### **The Specifics of This Case**

The liability issues involve assessing whether the height differential and whether that contravenes the *Minimum Maintenance Standards for Municipal Highways Regulation*, per the Municipal Act, 2001 or the Town's own policy for inspection and repair of height differential.

Justice Lofchik found that the sidewalk height differential could have exceeded the City's policy for repair but also found that notwithstanding, the City failed to implement properly its own inspection and repair policy for their specific section of sidewalk. On this basis, a liability of 50% was found against the City, with the injured female plaintiff being 50% contributorily negligent.

The female was 53 years old at Trial and earned roughly \$18,000/year as a hairdresser. Despite the plaintiff's claims that she continued to miss significant time from work and was unable to resume full-time work, the Court awarded her \$1000 income loss per year into the future, which is roughly a 5% income loss valuation.



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The injured plaintiff claimed various damages, including the installation of a new hot tub at home to provide therapeutic relief. The Court assessed damages at approximately \$200,000 and then reduced this by 50% to account for the plaintiff's contributory negligence.

Gregory Chang  
Toronto Personal Injury and Insurance Lawyer

Source: Ontario Superior Court of Justice, [Grayling v. The Corporation of Haldimand County, 2014 ONSC 198 \(CanLII\)](#), January 17, 2014.